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**UNITED STATES DISTRICT COURT**  
**FOR THE DISTRICT OF OREGON**  
**PORTLAND DIVISION**

**BARK, CASCADIA WILDLANDS,  
OREGON WILD, AND WILDEARTH  
GUARDIANS,**

Plaintiffs,

v.

**U.S. FOREST SERVICE,** a federal  
agency,

Defendant.

Case Number: 3:18-cv-01645-MO

**PARTIES' PROPOSED  
SCHEDULING ORDER**

Pursuant to the provisions of Rule 16(b) of the Federal Rules of Civil Procedure, the parties have conferred, and undersigned counsel for the parties hereby submit their proposed scheduling order below. The parties are in agreement as to the issues set forth below.

**I. Parties and Representatives:**

A. Plaintiffs: Plaintiffs in this case are Bark, Cascadia Wildlands, Oregon Wild and Wildearth Guardians, non-profit corporations. Counsel for Plaintiffs are:

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B. Defendant: Defendant in this case is the United States Forest Service, an agency of the United States Department of Agriculture. Counsel for Defendant are:

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## **II. Nature of the Case**

On September 10, 2018, Plaintiffs filed a lawsuit challenging the U.S. Forest Service's decision to authorize the Crystal Clear Restoration Project ("CCR Project") on the Mount Hood National Forest for alleged violations of the National Environmental Policy Act (NEPA), 42 U.S.C. §§ 4321-4370(h), National Forest Management Act (NFMA), 16 U.S.C. §§ 1600-1614, regulations implementing these statutes, and the Travel Management Rule (TMR), 36 C.F.R. § 212.5 *et seq.* Plaintiffs seek vacatur of allegedly illegal agency actions; injunctive and declaratory relief under the judicial review provisions of the Administrative Procedure Act (APA), 5 U.S.C. §§ 701-706, and attorneys' fees and costs under the Equal Access to Justice Act, 28 U.S.C. § 2412. Defendant denies that it is in violation of law and further denies that Plaintiffs are entitled to the relief they request.

## **III. Administrative Record**

The parties agree that the merits of Plaintiffs' claims are governed by the judicial review provisions of the APA, 5 U.S.C. §§ 701-706. The parties further agree that this case is therefore exempt from initial disclosures pursuant to Federal Rule of Civil Procedure 26(a)(1)(B)(i), and from the requirements of Rule 26(f) of the Federal Rules of Civil Procedure. The parties anticipate that stipulation to authenticity and foundation of the documents produced in the Administrative Record for this case will not be necessary.

Plaintiffs reserve the right to thoroughly review the administrative record produced by Defendant and to seek leave to complete that record. Defendant reserves the right to oppose any motions for leave to complete the record.

Plaintiffs additionally reserve the right to seek leave to submit extra-record evidence that they believe is necessary to supplement the administrative record. Defendant additionally reserves the right to object to the submission of any such extra-record evidence.

#### **IV. Trial**

The parties believe that the merits of this case should be resolved on cross-motions for summary judgment, and do not anticipate that a trial will be appropriate or required in this case.

#### **V. Jurisdiction and Venue**

Plaintiffs allege this Court has jurisdiction over this action pursuant to 5 U.S.C. §§ 701-706 (APA); 28 U.S.C. § 1331 (federal question), § 2201 (declaratory relief) and § 2412 (costs and fees). Plaintiffs allege venue is proper in this Court pursuant to 28 U.S.C. § 1391.

#### **VI. Proposed Deadlines**

##### **A. Administrative Record**

1. On or before November 30, 2018, Defendant will certify and lodge the Administrative Record with the Court and serve the Administrative Record on the parties. Defendant hereby seeks leave to file the Administrative Record in PDF format on electronic media (e.g., DVD, other disc, or thumb drive), rather than by CM-ECF.
2. On or before December 14, 2018, the parties will confer to address any issues with the Administrative Record.

3. On or before December 21, 2018, the parties will attempt to resolve any Administrative Record matters without judicial intervention.
4. On or before January 4, 2019, any motions to supplement or complete the Administrative Record must be filed. In the event that any such motions are filed, the parties further agree to submit a joint proposed schedule for the parties' briefing on those motions concurrently therewith and, if necessary, to submit a joint proposed amended schedule for the parties' dispositive briefing.

B. Motions (other than those related to the Administrative Record)

If no motions to supplement or complete the Administrative Record are filed, the parties agree to the following proposed schedule for briefing on cross-motions for summary judgment. They believe this round of motions will resolve all claims in this action. In addition to the proposed schedule, however, all parties reserve the right to file additional motions not contemplated by this schedule and in accordance with the Local Rules of this Court, including a motion for a preliminary injunction.

1. Plaintiffs' opening summary judgment brief shall be due January 11, 2019.
2. Defendant's combined cross-motion and response brief shall be due February 8, 2019.
3. Plaintiffs' combined response and reply brief shall be due March 1, 2019.
4. Defendant's reply brief shall be due March 22, 2019.
5. Defendant has indicated that a portion of the CCR Project, specifically the Ahoy Stewardship timber sale and associated ground-disturbing activities that are challenged as part of this action may commence as early as May 2019. The parties do request a hearing on their cross-motions for summary judgment and counsel for the

parties are currently available the week of April 8, 2019. If the Court is unavailable for oral argument the week of April 8, 2019, the parties request a hearing at the earliest date amenable to the Court and counsel for the parties after the close of the briefing schedule on cross-motions for summary judgment. Plaintiffs hope such a schedule will obviate the need to move the Court to preliminarily enjoin implementing activities under the Ahoy Stewardship timber sale to which Plaintiffs object.

**VII. Related Cases**

There are not any related cases pending before other courts or judges in this Court.

**VIII. Settlement Procedures**

The parties are amenable to discussing alternate dispute resolution (“ADR”) options should such options appear to be fruitful at a future juncture.

**IX. Other Matters**

None.

Respectfully submitted this 26th day of October 2018.

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